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NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

on this date of: December 19, 2012

STATE OF NEW JERSEY

DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF VETERINARY MEDICAL EXAMINERS

In the Matter of

MARJORIE L. O'NEILL, D.V.M.

License Number: 29VI00321200

To Practice Veterinary Medicine
in the State of New Jersey

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Administrative Action

FINAL ORDER OF DISMISSAL
OF PROVISIONAL ORDER

This matter was opened to the New Jersey Board of Veterinary Medical Examiners (hereinafter the "Board") upon receipt and review of consumer complaint, filed by C.B., and the subsequent issuance of a Provisional Order of Discipline, on June 8, 2011, against respondent Marjorie L. O'Neill, D.V.M. Following its consideration of this information, the Board made the following preliminary findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent Marjorie L. O'Neill, D.V.M., was initially licensed as a veterinarian in this State in December 1991 and has been a licensee at all times relevant hereto.

2. N.J.S.A. 45:16-9.9 authorizes the Board to promulgate rules and regulations to promote the safety, protection and welfare

of the public and to effectuate the purposes of the Veterinary Practice Act, N.J.S.A. 45:16-1 et. seq.

3. The Board reviewed a consumer complaint filed against the respondent by C.B. This complaint alleged that Dr. O'Neill engaged in negligence in her care and treatment of a stray kitten, "Blackie." The Board's review of this matter revealed that C.B.'s son presented Blackie to Central Jersey Veterinary Emergency Service ("Hospital") on April 18, 2010. The cat was already admitted to the Hospital when Dr. O'Neill came on duty later that evening. The respondent monitored Blackie during the night and tests were conducted. Dr. O'Neill noted the cat's condition was deteriorating and that she was displaying signs of neurological deficiencies. The respondent advised Ms. B.'s son of the possibility of rabies and recommended euthanasia and subsequent rabies testing. She maintained that the son adamantly rejected her recommendations and insisted that she continue treatment and observation.

4. Ultimately, Dr. O'Neill discharged Blackie to the son in a cardboard carrier for transport with instructions that the cat may have rabies and to refrain from opening the carrier or handling the cat. The son indicated that he was taking Blackie to the local Police department for resolution.

5. Statutes and regulations detail the process of reporting of suspected cases of rabies. N.J.S.A. 26:4-78 requires

that any " . . . person in charge of the animal . . . shall forthwith notify the local board [of health]." Additionally, the Department of Health and Senior Services has promulgated several regulations regarding this issue. N.J.A.C. 8:23-1.1, entitled "Reporting of cases of rabies in animals," provides that

- (a) Persons, **including veterinarians** and animal control officers, having in their possession, care or control, owning or having an interest in or knowledge of, an animal affected with rabies **or suspected of being affected with rabies**, shall provide forthwith a report containing the fact of the animal being affected with or suspected of being affected with rabies to the person designated to receive such reports by the local health agency . . . [N.J.A.C. 8:23-1.2(a); emphasis added].

Additionally, N.J.A.C. 8:57-1.8 specifically states that

- (a) **A veterinarian**, certified animal control officer or manager of an animal facility **shall** report an animal affected with rabies **or suspected of being affected with rabies** in the manner set forth in N.J.A.C. 8:23-1.2. [N.J.A.C. 8:57-1.8(b); emphasis added].

At no time did Dr. O'Neill report Blackie's suspected case of rabies to health officials.

CONCLUSIONS OF LAW

1. The Board provisionally finds that the respondent Marjorie L. O'Neill, D.V.M., violated or failed to comply with the provisions of statutes and regulations administered by the Board, in violation of N.J.S.A. 45:1-21(h), in that she failed to properly

handle and report a suspected rabies case.

2. The Board also provisionally finds that Dr. O'Neill's conduct of failing to report a suspected case of rabies and releasing an animal suspected of being affected with rabies to a consumer constitutes professional misconduct, contrary to N.J.S.A. 45:1-21(e). The Board finds that the facts as detailed above establish a violation of N.J.S.A. 45:1-21(e) and (h) and therefore provide a basis for disciplinary action.

DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline, which provisionally imposed a formal reprimand, a cease and desist directive and a civil penalty totaling \$1,500.00, was entered on June 8, 2011 and a copy was served on the respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor. The Provisional Order was served on the respondent on or about June 13, 2011.

Dr. O'Neill responded to the POD in a July 2011

correspondence. In this document, the respondent provided information and other reasons which indicated that the Board's facts and conclusions should be modified. Dr. O'Neill maintained, among other contentions, that the cat ". . . did not show any signs of being affected with rabies while under [her] observations," and that she did not ". . . have knowledge or suspect [the cat] of being infected with rabies." Additionally, the respondent noted that the cat was released from her facility and transported directly to a humane animal center where the critically ill cat was euthanized on April 19, 2010. Finally, Dr. O'Neill further requested that the Board dismiss the Provisional Order.

The Board reviewed the respondent's submission at its October 17, 2012 meeting. Following its review of this matter, the Board determined that further proceedings were not necessary. Rather, it concluded that the respondent had presented sufficient evidence to conclude that public discipline was not warranted. Thereafter, the Board voted to dismiss the previously issued POD and to finalize the Provisional Order with the modifications as stated above.

ACCORDINGLY IT IS, on this 12th day of DECEMBER 2012

ORDERED that:

1. The Provisional Order of Discipline, issued on June 8, 2012, which proposed to impose a formal reprimand, a cease and desist

directive and an intended civil penalty of \$1,500.00, against the license of Marjorie L. O'Neill, D.V.M., to practice veterinary medicine in the State of New Jersey, is hereby dismissed.

NEW JERSEY STATE BOARD
OF VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
MARK W. LOGAN, V.M.D.
President